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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,304

02/20/2004

Norman Herron

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06/12/2007

E I DU PONT DE NEMOURS AND COMPANY

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EXAMINER

NOLAN, JASON MICHAEL

ART UNIT

PAPER NUMBER

1626

MAIL DATE

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06/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/783,304	<b>Applicant(s)</b> HERRON ET AL.	
	<b>Examiner</b> Jason M. Nolan, Ph.D.	<b>Art Unit</b> 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-16 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,17-20,23,25 and 38 is/are rejected.
- 7) ☒ Claim(s) 3-5,21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

**Claims 1-25 & 38** are pending; of which, **Claims 1, 2, 10 & 18** are currently amended and **Claim 38** is new.

#### *Response to Amendment*

Applicants' amendments to **Claims 1, 2, 10 & 18** have been considered and are entered. With respect to **Claim 1**: **R<sup>1</sup>** is understood to be an aryl or heteroaryl optionally substituted with a crosslinkable group. Applicant's comments, 04/03/2007, have clarified the record.

#### *Response to Arguments*

Applicants' argument, see Amendment – After Non-Final Rejection, filed 04/03/2007, with respect to the prior art anticipation by Hirose *et al.* (JP 2004030942 A2, published 1/29/2004) have been fully considered but they are not persuasive. Applicant is comparing the prior art compounds RN 651048-27-0 and RN 651048-28-1 with the embodiments from the specification on page 5. Examiner cannot read limitations from the specification into the claims. Further, Applicant states that the Office Action has not established that the styryl and ethynylbenzene substituents in the Hirose *et al.* compounds are polymerizable (crosslinkable) in that reference. Examiner points out that the compounds taught by Hirose *et al.* meet all of the limitations of the instant claims and it is not necessary for the prior art reference to have the same utility as the invention of the instant application. One of skill in the art would recognize that

essentially "any polymerizable group can function as a crosslinkable group," (see page 2, II. 32-38 of the instant specification), and that the styryl and ethynylbenzene substituents would both be considered a polymerizable group.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 6, 7, 17-20, 23 & 25** are rejected under 35 U.S.C. 102(a) as being anticipated by Hirose *et al.* (JP 2004030942 A2, published 1/29/2004). Taught in the Japanese Patent by Hirose *et al.* are the compounds RN 651048-27-0 and RN 651048-28-1; in which  $R^1$  contains a crosslinkable group and E is  $C(R^5R^6)$ , (see Office Action 12/06/2006).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 38** is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claim recites the language "comprising" and the scope of this term is unclear. The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See: e.g.,

Art Unit: 1626

Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.); *Moleculon Research Corp. v. CBS, Inc.*, 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); *In re Baxter*, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); *Ex parte Davis*, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts"). Examiner suggests deleting the word "comprising" and inserting the words - - consisting of - -.

### ***Claim Objections***

**Claims 3-5 & 21** are objected to as being dependent upon a rejected base **Claim 1**, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Applicant's amendment (with respect to **Claim 38**) necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1626

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

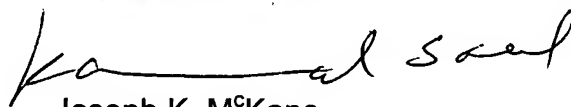
### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jason M. Nolan, Ph.D.** whose telephone number is **(571) 272-4356** and electronic mail is **Jason.Nolan@uspto.gov**. The examiner can normally be reached on Mon - Fri (9:00 - 5:30PM). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Joseph M<sup>c</sup>Kane** can be reached on **(571) 272-0699**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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KAMAL A. SAEED, PH.D.  
PRIMARY EXAMINER



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Date: June 8, 2007